

REMARKS/ARGUMENTS

Status of the Application

Applicants respectfully request reconsideration of the rejections set forth in the Office Action mailed on November 20, 2003.

- Claim 1 is rejected under 35 U.S.C. 102 (b)
- Claims 1-10, 12-18, and 22-26 are rejected under 35 U.S.C. 102 (e)
- Claims 11, and 19-21 are rejected under 35 U.S.C. 103(a)
- Claims 1 and 13 are objected to

Thus, claims 1-26 are pending in the current application.

The Claims

Rejections Under 35 U.S.C. § 102

Claim 1

The Examiner has rejected claim 1 under 35 U.S.C. § 102 (b) as being anticipated by *Canon et al. (Canon)*. Applicant respectfully traverses.

Canon describes a method of evaluating the performance of computer systems (*see* p. 71, col. 2, ¶ 1). More particularly, *Canon* describes a “*virtual prototyping* technique that is... suited for ‘performance testing’” (*id.*) (*emphasis in original*). Thus, the objective described under *Canon* is “to obtain greater accuracy than analytic modeling and simulation, but to use an approach that is more economic than hardware prototyping” (p. 72, col. 1, ¶ 3). As is evident, *Canon*’s virtual machine is used as a predictive measuring tool to evaluate the performance parameters of prototyped systems (*see for example* p. 79, col. 1, § 7.1 et seq.). To wit, “[t]he Emulator is useful in this situation because of its virtual prototype capability. The ability to quickly create a processor or device with time characteristics unlike any existing counterpart...” (p. 79, col. 1, ¶ 5).

By contrast, the present invention requires a virtual machine configured to function *as a browsable virtual machine (VM)* (*see* Specification p. 6, ll.17-22; claim 1). The browsable VM serves as a “window into the “state and performance” of the underlying virtual machine by “handling queries relating to the virtual machine” and “wherein the reply [from the web server] provides insight into or effects the operation of the virtual machine” (*see id.*). It is the functionality of an underlying virtual machine for a selected application itself that is being

queried, not a virtual machine that models a prototyped configuration as described in *Canon*. The crucial difference is that the virtual machine of the present invention represents a means to deliver platform independent applications while *Canon's* virtual machine is more accurately characterized as a virtual model of a prototype system.

Therefore, for at least the reasons stated above, Applicants respectfully submit that the rejection of claim 1 is not supported by the cited art and respectfully request reconsideration of the above rejection.

Claims 1-10, 12-18, and 22-26

The Examiner has rejected claims 1-10, 12-18, and 22-26 under 35 U.S.C. § 102 (e) as being anticipated by U.S. Patent No. 6,433,794 to *Beadle et al. (Beadle)*. Applicant respectfully traverses.

As set forth by *Beadle*, "The present invention relates...to a method and apparatus for selecting a Java™ virtual machine for use with a browser program" (col. 1, ll. 20-25) (emphasis added). Furthermore, as *Beadle* observes,

Many currently available web browsers... incorporate JVMs as part of the web browser. Presently, however, JVMs updates are provided more often than web browser updates. Such a situation prevents users from taking advantage of improved versions of JVMs until the web browser is updated.... Therefore, it would be advantageous to have an improved apparatus for providing users an ability to use more recent versions of JVMs.... (col. 2, ll. 50-63)

As such, a user may select an appropriate JVM based on profiles available to a user through various GUIs (*see* col. 6, ll. 13-24).

By contrast, the present invention requires a virtual machine configured to function *as a browsable virtual machine (VM)* (*see* Specification p. 6, ll.17-22; claim 1). The browsable VM serves as a "window into the "state and performance" of the underlying virtual machine by "handling queries relating to the virtual machine" and "wherein the reply [from the web server] provides insight into or effects the operation of the virtual machine" (*see id.*). It is the functionality of an underlying virtual machine for a selected application itself that is being queried, not mere selection of a suitable JVM for use with a particular browser as described by *Beadle*.

Therefore, for at least the reasons stated above, Applicants respectfully submit that the rejection of claim 1 is not supported by the cited art and respectfully request reconsideration of the above rejection.

Independent claims 13 and 26 are method claims directed to methods of handling queries to a virtual machine configurable to function as a browsable virtual machine (VM). As such the limitations of these claims are directed to the substantially the same subject matter as contained in claim 1 and are therefore Applicant contends that claims 13 and 26 are also allowable over the cited art for at least the reasons cited for independent claim 1.

All remaining dependent claims depend either directly or indirectly from independent claims 1 and 13 and are therefore also allowable over the cited art for at least the reasons stated for claims 1 and 13. Further, the dependent claims require additional elements that when considered in context of the claimed inventions further patentably distinguish the invention from the cited art.

Rejections Under 35 U.S.C. § 103

Claims 11, and 19-21

The Examiner has rejected claims 11, and 19-21 under 35 U.S.C. § 103 as being unpatentable by U.S. Patent No. 6,433,794 to *Beadle et al.* (*Beadle*). Applicant respectfully traverses.

In light of the argument above, Applicant respectfully submits that the Examiner's rejection under *Beadle* is made moot. In particular, *Beadle* does not describe each and every element for the independent claims upon which claims 11, and 19-21 depend. Thus, although the Examiner has rejected claims 11, and 19-21 as being obvious under *Beadle*, Applicants maintain that the rejection is improper where the independent claim limitations upon which claims 11, and 19-21 depend have not been disclosed by the primary reference (e.g., *Beadle*) as discussed above.

Therefore, for at least the reasons stated above, Applicants respectfully submit that the rejection of claims 11, and 19-21 is made moot and respectfully request reconsideration of the above rejection.

Objections

Claims 1, 13, and 26

The Examiner has objected to claims 1 and 13 for not defining the abbreviation for 'VM' before using it. Applicant has amended claims 1 and 13 to define the abbreviation 'VM' and further amended claim 26 in likewise manner. Applicant, therefore, respectfully requests the Examiner's objection be removed.

Applicants believe that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,

BEYER WEAVER & THOMAS, LLP



Damon K. I. Kali
Reg. No. 50,541

P.O. Box 778
Berkeley, CA 94704-0778
(650) 961-8300